

**ORDINANCE NO. 24-01**

**AN ORDINANCE SUPPLEMENTING THE REVISED GENERAL ORDINANCES  
OF THE CITY OF OCEAN CITY  
(Boardwalk Entertainers)**

BE IT ORDAINED by the Mayor and Council of the City of Ocean City, County of Cape May, State of New Jersey, as follows:

**SECTION 1.**

Chapter XVIII, "Beaches, Boardwalks and Recreational Areas", Section 18-13, "Boardwalk Entertainers", is hereby amended to read as follows:

Chapter 18. Beaches, Boardwalks and Recreational Areas

§ 18-13. BOARDWALK ENTERTAINERS.

[Ord. #17-04 § 1]

It is hereby determined, declared and found that the City of Ocean City public Boardwalk is a unique and invaluable social, economic, recreational and aesthetic resource which requires the attention of the City of Ocean City to maintain its character. The following rules are hereby enacted in the interest of the public welfare, and to assure the safety of persons and property thereupon.

§ 18-13.1. Boardwalk Entertainer Locations Designated.

[Ord. #17-04 § 1]

- a. All performances between May 1<sup>st</sup> and October 31<sup>st</sup> shall take place only within the two designated entertainment zones listed below:
  1. Entertainment Zone 1 – 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Streets.
  2. Entertainment Zone 2 – 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Streets.
- b. All performances within the Entertainment Zones shall take place at designated performance locations more particularly described on the Boardwalk as follows:
  1. On the ocean side of the Boardwalk, within four (4') feet of the railing, at designated performance locations opposite the street ends at 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Streets.
  2. Designated performance locations next to the ocean-fronting beach pavilions located, or to be constructed, on the ocean side of the Boardwalk between 5<sup>th</sup>, 8<sup>th</sup>, 12<sup>th</sup> and 14<sup>th</sup> Streets.
  3. On the Bay side of the Boardwalk, within four (4') feet of the railing, at designated performance locations between 5<sup>th</sup> and 6<sup>th</sup> Streets.

§ 18-13.2. Rules and Regulations.

[Ord. #17-04 § 1; Ord. #19-02]

- a. An entertainer must fill out the street entertainers application form and submit it to the Department of Community Services. Applications for entertainers under the age of eighteen (18) years must be signed by both the entertainer and the entertainer's legal guardian.
- b. Licenses will be issued by the Department of Community Services, City Hall, 861 Asbury Avenue, Ocean City, New Jersey 08226. No applications will be accepted via mail.
- c. Badges displaying licenses must be worn or displayed while performing.
- d. Licensees may perform only at the locations assigned by the Department of Community Services and are not transferrable.
- e. Sound produced by an entertainer (or group of entertainers) shall not be audible thirty (30') feet from the Boardwalk railing adjacent to which the entertainer(s) is/are performing. No electronic amplifiers are permitted for performances. An electronic instrument, such as a keyboard, is permitted provided that the music is not audible thirty (30') feet from the Boardwalk railing adjacent to which the entertainer is performing.
- f. An entertainer may not block the Boardwalk, nor may anyone observing an entertainer's performance.
- g. An entertainer may not block any entrance to any business or any ingress/egress point to and/or from the Boardwalk, nor may anyone observing an entertainer's performance.
- h. The use of any sharp or dangerous weapons, with the exception of sword swallowers, is prohibited.
- i. Performances should be appropriate for a general audience and profanity is prohibited. Nudity is not permitted. Performances involving animals, paints, markers, pencils, charcoal, fire, drums, balloons or crayons are not permitted.

j. The hat or other receptacle for donation collection must remain stationary. No sign requesting contributions shall exceed eight (8") inches by eight (8") inches in size.

k. The City of Ocean City reserves the right to revoke a license at its discretion. The City shall notify an entertainer who has been the subject of a complaint in writing. The entertainer shall respond to the written notice of complaint in writing within seven (7) days of receipt by the entertainer of a copy thereof. Failure to do so shall result in loss of license.

l. A Boardwalk Entertainer license shall entitle a performer to perform on the Boardwalk on Mondays, Wednesdays, Fridays, and Saturdays; and on Sundays beginning at 7:00 p.m. The right to perform until 10:00 p.m. is subject to other permitted uses which may take precedence over a street performer license. Examples of other permitted uses include, but are not limited to, Special Events such as Family Night, Character Night, Mummies Night and parades.

m. An entertainer may not receive a license unless all violations from previous years have been satisfied.

n. Entertainers are permitted to perform on the public Boardwalk at designated performance locations on designated days between the hours of 7:00 p.m. and 10:00 p.m.

o. No entertainer(s) shall remain at any said location for more than four (4) hours per forty-eight (48) hour period.

p. No entertainer(s) shall store, maintain, hide, etc., any of their property on City of Ocean City property.

q. A performer may not create an undue interference with the passage of the public through a public area including, but not limited to, the Boardwalk. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

r. Entertainers must check in prior to all performances. Check in will be located at a City facility designated by the Department of Community Services. Check in shall be no earlier than 6:00 p.m. Entertainers will be assigned a performance location by a designee of the Community Services Department daily upon check in.

#### § 18-13.3. License Required.

[Ord. #17-04, § 1]

No person may perform as an entertainer without first having obtained a license to do so from the Department of Community Services.

#### § 18-13.4. Classes and Scope of Licenses.

[Ord. #17-04 § 1]

a. The Department of Community Services shall administer the Boardwalk Entertainer licensing process. In its rules and regulations, the Department of Community Services shall specify:

1. The types of entertainment that may be performed under a license, to include the number of performances per calendar day;
2. The locations or areas for which a license is effective;
3. The maximum number of licenses to be issued for a particular location or area or for a particular day or time of day.

b. Required Considerations. In specifying limitations, the Department of Community Services shall consider:

1. The volume and types of vehicular and pedestrian traffic in a proposed street entertainment location or area;
2. The impact of street entertainment activities on the health, safety and general welfare of the public.

#### § 18-13.5. Limitations and Conditions.

[Ord. #17-04 § 1]

The Department of Community Services may impose reasonable limitations on any license issued under this section as necessary or proper to carry out the purpose and intent of this section.

#### § 18-13.6. Applications.

[Ord. #17-04 § 1]

a. An application for a license must be made in the form the Department of Community Services requires.

1. Applicant with Criminal History. No license shall be issued to any applicant found to have a criminal history of conviction of an offense involving dishonesty or a crime of the fourth degree or above pursuant to New Jersey law or pursuant to the laws of another state of the United States.

b. The application must contain:

1. The name and address of each performer;

2. The age of each performer;

3. The type of entertainment for which the license is sought;

4. A signed statement holding the City harmless.

5. In the case of an application made by an adult for a performer who is a minor, the required information shall be provided for both the adult applicant and each minor performer;

6. Such other information as the Department of Community Services may reasonably require.

c. The application must be verified before a notary public or other officer authorized to administer oaths.

#### § 18-13.7. Annual Fee.

[Ord. #17-04 § 1]

a. The annual fee for a license is as follows:

1. Boardwalk: Two-Hundred (\$200.00) dollars per entertainer. A group such as a band shall be required to pay one annual fee. A group cannot exceed four (4) individuals.

#### § 18-13.8. Entertainer Identification.

[Ord. #17-04 § 1]

a. The Department of Community Services shall issue an identification badge for each license issued.

b. The identification badge shall be of laminated plastic or other durable substance and shall bear:

1. The name, picture and address of the licensee; however, badges for licensees under the age of eighteen (18) years shall not include the licensee's picture, and shall bear an assigned file number rather than the licensee's name and address.

2. The year for which the license is issued;

3. A license issued to an adult for a minor shall include the picture of the adult;

4. An identifying number that corresponds with the number of the license.

c. Each entertainer must prominently display the badge while entertaining. An adult licensee responsible for a performer under the age of sixteen (16) years shall accompany the minor performer(s) at all times and shall display the identification badge for the minor.

d. Replacement badges. If a badge is lost, the Department of Community Services shall issue a replacement badge on payment by the licensee of a fee of fifteen (\$15.00) dollars.

#### § 18-13.9. Prohibited Conduct.

[Ord. #17-04 § 1]

a. A street entertainer may not:

1. Set any fee or require any donation for his or her performance; or

2. Suggest any minimum or maximum donation.

#### § 18-13.10. Revocation and Suspension of License.

[Ord. #17-04 § 1]

a. Authorized suspension or revocation. The Department of Community Services may suspend or revoke a license if the licensee violates any provision of:

1. This section;

2. The rules and regulations adopted under this article; or

3. Any other applicable Federal, State or City law.

b. No more than one entertainer shall perform at an approved location at the same time.

c. Mandatory Revocation. On a street entertainer's third violation of any provision, the Department of Community Services must revoke the street entertainer's license.

d. Application Following Revocation. If a license is revoked, the former licensee may not apply for a new license until one year from the date of revocation.

#### § 18-13.11. Administrative Appeals.

[Ord. #17-04 § 1]

a. Right of Appeal. An aggrieved party may appeal to the Business Administrator or Mayor or assigned designee:

1. The denial, suspension or revocation of a license; or
  2. Any other decision or ruling by the Department of Community Services.
- b. How and When Taken. The appeal must be taken, in writing, within ten (10) days from the date of notice of the denial, suspension, revocation, decision or ruling.
- c. Hearing and Decision. The Business Administrator, Mayor or designee:
1. Shall hold a hearing on the appeal as soon as practicable; and
  2. May affirm, modify or reverse the action of the Department of Community Services.

§ 18-13.12. Violations and penalties.

[Ord. #17-04 § 1]

Any person who violates any provision of this section or of the rules and regulations adopted under it is, upon conviction, is subject to a fine of not more than two thousand (\$2,000.00) dollars for each offense.

**SECTION 2.**

All ordinances or portions thereof inconsistent with this Ordinance are repealed to the extent of such inconsistency.

**SECTION 3.**

If any portion of this Ordinance is declared to be invalid by a Court of competent jurisdiction, it shall not affect the remaining portions of the Ordinance which shall remain in full force and effect.

**SECTION 4.**

This Ordinance shall take effect in the time and manner prescribed by law.

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Jay A. Gillian, Mayor

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Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the 11<sup>th</sup> day of January, 2024, and was taken up for a second reading and final passage at a meeting of said Council held on the 25<sup>th</sup> day of January, 2024 in Council Chambers, City Hall, Ocean City, New Jersey, at 10:00 o'clock in the morning.

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Melissa G. Bovera, City Clerk